

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO, ex rel.)	
State Engineer,)	No. 69 CV 07941 MV/KK
)	
Plaintiff,)	Rio Chama Adjudication
)	
v.)	Pueblo Claims Subproceeding 1
)	
ROMAN ARAGON, et al.,)	
)	
Defendants.)	
_____)	

JOINT STATUS REPORT

Pursuant to this Court's Order of March 1, 2018 (Document 11334), the undersigned Parties submit this Joint Status Report. The Parties are discussing possible resolution of all Ohkay Owingeh's water rights claims to all sources of water. As a result, this Joint Status Report is being filed simultaneously in the companion case styled *State of New Mexico ex rel. State Engineer v. Abbott*, No. 68-cv-07488 (MV/JHR).

1. Settlement Negotiations

Since the last status report on February 9, 2018, the settlement discussions concerning Ohkay Owingeh's water rights claims continue to make headway. During this period, discussions with some of the settlement parties and their consultants have focused on some of the following topics: 1) administration of the water rights of the Pueblo to be recognized in a settlement agreement and final decree; 2) ongoing development of a groundwater model for use in settlement discussions and implementation of a settlement agreement; and 3) mechanisms to

ensure finality and certainty for the Pueblo's water rights to be recognized in a settlement agreement and final decree.

Ohkay Owingeh had meetings with one or more of the negotiating Parties on the following dates:

February 13:	Telephonic meeting among consultants for certain settlement parties regarding development of groundwater model
February 14:	In-person meeting between Ohkay Owingeh and the Federal Assessment Team
February 21:	Telephonic meetings between Ohkay Owingeh and attorneys for certain settlement parties
April 3:	In-person meeting between Ohkay Owingeh and the Federal Assessment Team In-person meeting among certain settlement parties In-person meeting between attorneys for Ohkay Owingeh and attorneys for the City of Española
April 4:	In-person meeting between attorneys for Ohkay Owingeh and attorneys for the State of New Mexico
April 10:	Telephonic meeting between attorneys for Ohkay Owingeh and the attorney for Rio Chama Acéquia Associations
April 20:	Telephonic meeting among attorneys for certain settlement parties
April 25:	Telephonic meeting among attorneys for certain settlement parties
April 30:	In-person meeting between Ohkay Owingeh, Bureau of Reclamation and the Federal Assessment Team In-person meeting between Ohkay Owingeh, the Director, Department of the Interior, Secretary's Office of Indian Water Rights, and the Senior Advisor to the Secretary on Water and Western Resources Issues
May 2:	Telephonic meeting among consultants for certain settlement parties regarding development of groundwater model

- May 7: In-person meeting between Ohkay Owingeh and the Federal Assessment Team
- June 6: In-person meeting between Ohkay Owingeh, various acéquiás and the U.S. Forest Service

In addition, counsel for Ohkay Owingeh have met frequently with the Pueblo's Leadership, staff and consultants to discuss the development of data for, and the nature of settlement proposals.

This Court has ordered the settlement parties to describe their expectations of the timing of a settlement agreement. The Parties report as follows. It is expected that the compilation and analyses of technical data and studies necessary to facilitate the settlement will be completed and made available as appropriate for review by the settlement parties by March 2019. Ohkay Owingeh and the United States are currently engaged in nine such technical studies. Other studies address non-Indian and regional water interests. After completion of the studies, the non-Pueblo settlement parties will need time to review them, consult with their own technical consultants, and, if necessary, conduct their own studies. It is anticipated that the groundwater model necessary to reach a settlement and to administer its terms will be completed by December 2019. As previously reported, there are on-going negotiations among specific parties that involve issues that do not require substantial technical analyses and/or additional data compilation. Those negotiations will continue as the technical studies are being completed. Depending in part on the status of the technical studies, the Parties anticipate that significant negotiations will occur in 2019 and extend into 2020. Those negotiations will be based on the results of the technical studies and analyses. The parties believe that progress on all of the outstanding issues would be facilitated by the assistance of a professional facilitator or mediator; attention has been devoted to how best to secure this assistance.

2. Scheduling Dispositive Motions

The resumption of litigation would hamper the negotiating Parties' efforts to resolve Ohkay Owingeh's water rights claims through negotiations. The undersigned Parties are committed to continuing the negotiation process. As a result, the undersigned Parties do not anticipate the need for the Court to schedule the filing and briefing of motions for summary judgment or other dispositive motions within the next four months.

3. Rescheduling the Trial

For the same reasons, the undersigned Parties do not believe that the trial should be scheduled at this time.

4. Other Matters

The undersigned Parties suggest that the Court require the filing of a joint status report six months from now, on December 10, 2018, at which time they will report to the Court on their progress and on the question of whether they believe the Court should schedule dispositive motions or otherwise resume litigation.

Dated: June 8, 2018

Respectfully submitted,

/s/ Curtis G. Berkey

Attorneys for Ohkay Owingeh

Curtis G. Berkey (CA State Bar No. 195485)
Scott W. Williams (CA State Bar No. 097966)
Berkey Williams LLP
2030 Addison Street, Suite 410
Berkeley, California 94704
E-mail: cberkey@berkeywilliams.com
E-mail: swilliams@berkeywilliams.com

Lee Bergen
Bergen Law Offices, LLC
4110 Wolcott Avenue NE, Suite A
Albuquerque, New Mexico 87109
leebergen@nativeamericanlawyers.com

Attorney for the United States

/s/ Bradley Bridgewater

Bradley Bridgewater
U.S. Department of Justice
South Terrace, Suite 370
999 18th Street
Denver, CO 80202
Bradley.S.Bridgewater@usdoj.gov

Attorneys for State of New Mexico

/s/ Arianne Singer

Arianne Singer
Kelly Brooks Smith
Special Assistant Attorneys General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
arianne.singer@state.nm.us
kelly.smith@state.nm.us

Attorneys for City of Española

/s/ Cristina A. Mulcahy

Jay Stein
Cristina A. Mulcahy
Stein & Brockmann, PA
P.O. Box 2067
Santa Fe, NM 87504-2067
jfstein@newmexicowaterlaw.com

Attorneys for Rio Chama Acéquia Association

/s/ Seth R. Fullerton

Seth R. Fullerton
Katz Herdman MacGillivray & Fullerton PC
P. O. Box 250
Santa Fe, NM 87504-0250
srf@santafelawgroup.com

Attorneys for El Rito Ditch Association and its acéquia members; Gallina-Capulin Acéquia Association and its acequia members; La Asociacion de las Acéquias del Rio Tusas, Vallecitos y Ojo Caliente and its acéquia members

/s/ Mary E. Humphrey

Mary E. Humphrey
Connie Odé
Humphrey & Odé, PC
P.O. Box 1574
El Prado, NM 87529
humphrey@newmex.com
code@newmex.com

Attorneys for Asociación de Acéquias Norteñas de Rio Arriba

/s/ John W. Utton

John W. Utton
Utton & Kery, PA
P. O. Box 2386
Santa Fe, NM 87504-2386
john@uttonkery.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of June 2018, I filed the foregoing electronically through the CM/ECF system, which caused the parties listed on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Curtis G. Berkey

Curtis G. Berkey